

Click here for
[DISCLAIMER](#)

Document starts on next page



MSAPC ADVISORY CIRCULAR

U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF AIR AND WASTE MANAGEMENT ●

MOBILE SOURCE AIR POLLUTION CONTROL

A/C NO. 45

May 12, 1975

PAGE 1 OF 4 PAGES

SUBJECT: Appeals Procedures on Administrative Rulings

A. Purpose

This Advisory Circular establishes recommended procedures by which manufacturers may appeal administrative rulings made within the Certification Branch, Certification and Surveillance Division (CSD). The procedures will provide an opportunity for appeal at each level of administrative authority within CSD and, where necessary, appeal to the Deputy Assistant Administrator of the Office of Mobile Source Air Pollution Control (OMSAPC). (An organization chart of these administrative units is included in the Appendix to this Advisory Circular.) These procedures are designed to supplement existing regulatory authority concerning EPA review of manufacturers' requests for hearings on certification (ref. 40 CFR 85.075-3 and 85.075-30)^{1/} and the administration of hearings granted (ref. 40 CFR 85.005)^{2/} by providing manufacturers with opportunity for more informal appeals procedures at the lower administrative levels.

B. Background

The continued growth of MSAPC's certification program has necessitated a deliberate and comprehensive delegation of authority and responsibility within the Certification Branch, CSD. (For example, responsibility for the designation of durability and emission-data test vehicle and engine requirements and for approval of changes in these requirements has been delegated to the Certification Team Leaders.) This delegation is designed to assure the timely certification of vehicles and engines and facilitate their orderly introduction into the market.

^{1/} References to sections of 40 CFR 85.075 for gasoline-fueled light-duty vehicles also apply to corresponding sections of 40 CFR 85.175 (Diesel light-duty vehicles), 85.275 (light-duty trucks), 85.376 (Diesel light-duty trucks), 85.775 (gasoline-fueled heavy-duty engines), and 85.875 - 85.975 (Diesel heavy-duty engines).

^{2/} Reference to 40 CFR 85.005 for gasoline-fueled light-duty vehicles also applies to 40 CFR 85.105 (Diesel light-duty vehicles), 85.205 (gasoline-fueled light-duty trucks), 85.305 (Diesel light-duty trucks), 85.705 (gasoline-fueled heavy-duty engines), and 85.805 - 85.905 (Diesel heavy-duty engines).

In addition to delegation of authority within the Certification Branch, the expeditious administration of the 1976 and later model year certification programs requires that clearly delineated lines of communication exist between the manufacturer and the Certification Branch. Maximum efficiency in the certification process requires that administrative decisions be initially reconsidered at the administrative level from which that determination was issued. If all requests for reconsideration were directed to a higher administrative level, particularly the levels of Certification Branch Chief and CSD Director, it would delay the overall certification program, since detailed understanding of the specific ruling appealed resides at the lower administrative levels. To fully realize the advantages of the delegation of authority within the Certification Branch, the following administrative appeals procedures are hereby established.

C. Applicability

The appeals procedures outlined in this Advisory Circular are applicable to all manufacturers and are effective immediately.

D. The Appeals Procedures

Appeals may be made from decisions of the Certification team members, the Section Chiefs, the Branch Chief, or the CSD Director.

1. Deliberations at the Certification Team Level

The Certification Team is charged with the immediate administration of each manufacturer's certification program. The Team is headed by a Team Leader who is responsible for all technical judgments made by the Team. The Team Leader may delegate such responsibility, at his discretion, to other members of the Certification Team. All aspects of a manufacturer's certification program should first be considered at the Team level. Determinations made by the Team shall be considered binding on the manufacturer unless they are overruled at a higher administrative level.

2. Review by the Certification Section Chief

A manufacturer may secure a review by the Section Chief of any determination made by the Certification Team. Request for this review should be made by the manufacturer through the Team Leader. During this review, the manufacturer's representative should be prepared to state explicitly and clearly the determination(s) from which relief is sought.

3. Review by the Certification Branch Chief

A manufacturer seeking relief from a determination by a Certification Section Chief may request a review of that finding by the Certification Branch Chief. To obtain this review, the manufacturer should provide to the CSD Branch Chief two copies of a written statement of the issue(s) involved in the

review, but need not include an elaboration of his position on the issue(s). A conference with the manufacturer and the Branch Chief will be scheduled following receipt of the manufacturer's statement.

4. Review by the CSD Director

A determination by the Certification Branch Chief is reviewable by the Director of the Certification and Surveillance Division. Request for such a review should be made in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the Branch Chief's determination, and data in support of such objections. Two copies of the statement shall be provided to the CSD Director. A conference with the manufacturer and the CSD Director will be scheduled following receipt of the manufacturer's written statement.

5. Review by the Deputy Assistant Administrator for MSAPC

A manufacturer seeking relief from a determination by the CSD Director may request a review of that decision by the Deputy Assistant Administrator for MSAPC. Request for such a review shall be made in writing, signed by an authorized representative of the manufacturer, and shall include a statement specifying the manufacturer's objections to the CSD Director's determination, and data in support of such objections. One copy shall be forwarded to the Deputy Assistant Administrator for MSAPC and one courtesy copy of the statement should be provided to the CSD Director. The request should be sent to:

Deputy Assistant Administrator
Mobile Source Air Pollution Control
U.S. Environmental Protection Agency (AW-455)
Washington, D.C. 20460

The Deputy Assistant Administrator will, as appropriate, arrange for a meeting on the issue with the manufacturer.

Mobile Source Air Pollution Control



APPENDIX

ADMINISTRATIVE UNITS WITHIN OMSAPC

